IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 1322 of 1999

Between:

Pedda Mattam Siddamma, w/o. late P.Suguraiah,

Undavally village, Manapad Mandal, Mahabubnagar Dist.

..... PETITIONER

AND

1. Joint Collector, Mahabubnagar District.

2. Padda Mattam Veeraiah, s/o. P.Suguraiah,

r/o. Undavally village, Manapad Mandal,

Mahabubnagar District.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a direction or order more particularly one in the nature of Writ of Mandamus, declaring the impugned order passed by the Joint Collector, Mahabubnagar, in Case No.B2/IA-17/96, dated 23-11-1998 as illegal, arbitrary and without jurisdiction and it violates principles of natural justice.

Counsel for the Petitioner : MR.N.ASHOKUMAR

Counsel for Respondent No.1 : G.P. for Revenue

Counsel for Respondent No.2 : MR.R.V.SUBBA RAO

The Court made the following :

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ORDER :

The dispute is between the mother-petitioner herein and the son-second respondent herein, in respect of agricultural land admeasuring Ac.5-28 gts. in Survey No.178 and an extent of Ac.9-38 gts. in Survey No.255/1 of Undavalli Village in Manapad Mandal of Mahabubnagar District. The land is admittedly inam land covered by the provisions of Andhra Pradesh (Telangana Area) Abolition of Inams Act,1955 (for brevity 'the Act'). After coming into force of the Act, the petitioner filed an application before the Revenue Divisional Officer (Inams Tribunal) claiming Occupancy Rights Certificate (ORC). She contended that as per Kasra Pahani 1954-55 the land is classified as 'Choutha inam' and one Sri P.Suguraiah was shown as the cultivator of the land. Sri P.Suguraiah is none other than the husband of the petitioner and father of the second respondent. Be that as it is, after conducting necessary enquiry, the Revenue Divisional Officer granted ORC in favour of the petitioner and the second respondent jointly. It appears, Sri P.Suguraiah executed a Will on 8-4-1996 bequeathing various lands to the petitioner and four daughters, except the lands in Survey Nos.178 and 255/1 which were bequeathed to the second respondent herein. Having come to know about this, the second respondent preferred an appeal under Section 24 of the Act before the first respondent, who by impugned order dated 23-11-1998 remanded the matter to the Revenue Divisional Officer for fresh disposal after giving opportunity to both the parties. The order of the Joint Collector is assailed in the present writ petition.

At the time of hearing, learned counsel for the second respondent Sri R.V.Nagabhushan Rao brought to the notice of this Court that second respondent filed a suit being O.S.No.25 of 1994 on the file of the Court of the District Munsif, Alampur for declaration of title in respect of land comprised in Survey Nos.178 and 255/1 and that the suit was decreed by the trial Court as well as the appellate Court. It is also brought to the notice of this Court that the petitioner filed a Second Appeal being S.A.No.712 of 1997 before this Court, which is pending. These facts are not denied by the learned counsel for the petitioner.

Second respondent produced the Will before the first respondent. In connection therewith, the first respondent observed as under.

……A perusal of the contents of the Will Deed reveal that all the lands held by father of the appellant was bequeathed to his wife and (4) daughters except as specifically mentioned therein, which were allotted to the share of the appellant. Evidently, the lands in Sy.Nos.178 and 255 were not allotted to the share of Respondent or to her (4) daughters. This clearly show that the suit lands left to the share of the appellant herein. The respondent herein, in her counter, state that there is a stay order from the Hon'ble High Court of A.P., dt.19-9-1997 in CMP.No.13982 of 1997 on the orders of the Sub-Court. But she has failed to file copy of the said order before this Court. It is undisputed that there is a Will deed executed by the father of the appellant and husband of the respondent. The contents of the Will deed favour the claim of the appellant whereas the respondent denying it. On the other hand, the respondent is silent of getting other lands through the said Will deed.

Observing as above, the Joint Collector thought it fit that the matter needs a thorough enquiry. There is no strong reason to take a different view from that of the Joint Collector. Indeed, if Sri P.Suguraiah has executed a Will on 8-4-1996, it has a bearing when considering the application for ORC filed by the petitioner as well as the second respondent. In that view of the matter, the impugned order does not suffer from any infirmity nor there is any error in the exercise of jurisdiction. If no orders are passed by this Court in the Second Appeal, the Revenue Divisional Officer shall dispose of the matter within a period of four weeks from the date of receipt of a copy of this order.

The writ petition, with the above observations, is dismissed. No costs.

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(V.V.S.RAO, J.)

13-09-2004.

Msr.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. Joint Collector, Mahabubnagar District.

2. 2CCs to Government Pleader for Revenue, High Court of A.P., Hyd.

3. 2CD copies

HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.1322 of 1999

13-09-2004.

(Msr)